

E-FILED 10/27/08

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

**UNITED STATES OF AMERICA and
MARIE PALMER, Revenue Officer,**

Petitioners,

v.

KEVIN AND NANCY RYAN,

Respondents.

No. C 08-04823 RS

**ORDER TO SHOW CAUSE RE: JUDICIAL
APPROVAL OF LEVY UPON PRINCIPAL
RESIDENCE**

Good cause having been shown by the petitioner upon its petition filed in the above-entitled proceeding, it is hereby:

ORDERED that respondents Kevin and Nancy Ryan appear before this Court on the **7th day of January, 2009**, at 2:30 p.m, in Courtroom No. 4, 5th Floor, United States District Court, 280 S. First Street, San Jose, California, and then and there show cause, if any, why the IRS should not be granted approval to levy upon respondents' principal residence, and provide documents and testimony, if any, which demonstrates that (26 C.F.R. § 301.6334-1(d)(2)):

A. The underlying liability has been satisfied;

B. Respondents have other assets from which the liability can be satisfied; or

C. The Internal Revenue Service did not follow the applicable laws or procedures pertaining to the levy;

and it is further

1 **ORDERED** that a copy of this Order to Show Cause, together with a copy of the aforementioned
2 petition and supporting declarations, be served upon said respondents in accordance with Rule 4 of the
3 Federal Rules of Civil Procedure at least thirty-five (35) days before the return date of this Order above
4 specified; and it is further

5 **ORDERED** that within twenty-one (21) days before the return date of this Order, respondents
6 may file and serve a written response to the petition, supported by appropriate affidavit(s) or
7 declarations(s) in conformance with 28 U.S.C. § 1746, that the petitioner may file and serve a written
8 reply to such response, if any, within fourteen (14) days before the return date of this Order, and only
9 those issues raised by the pleadings will be considered on the return date of this Order, and only those
10 issues raised by motion or brought into controversy by the responsive pleadings and supported by
11 affidavit(s) or declaration(s) will be considered at the return of this Order, and any uncontested allegation
12 in the petition will be considered admitted.

13 **ORDERED** that the defendants shall make a determination regarding the issue of consent to the
14 jurisdiction of the Magistrate Judge in accordance with Title 28, U.S.C. §636(c) and Federal Rule of
15 Civil Procedure 73 and file either a Consent to Proceed Before a United States Magistrate Judge or a
16 Request for Reassignment to a United States District Judge no later than **December 10, 2008**.

17 ORDERED this 27th day of October, 2008, at San Jose, California.

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UNITED STATES MAGISTRATE JUDGE